

REMARKS

Claims 1-4 were pending in the application at the time of the Office Action. The Office Action rejected claims 2 and 4. Claims 1 and 3 were withdrawn from consideration. By this response, Applicant has amended claims 2 and 4 to clarify the structural elements of the apparatus and the interrelationships between those structural elements. Applicant has also canceled claims 1 and 3 and added new claims 5-29. Applicant submits that the claim amendments and the new claims do not introduce new matter and entry of the amendments is respectfully requested. As such, claims 2 and 4-29 are presented for the Examiner's consideration in light of the following remarks.

35 U.S.C. §102

Claims 2 and 4 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by United States Patent No. 5,702,397 issued to Goble et al. ("Goble"). Applicant respectfully traverses this rejection.

The Office Action asserts that the claimed "crimp" reads on collet halves 158a and 158b as depicted in Figures 25 and 26 of the Goble patent. With reference to Figures 25 and 26, the Goble patent discloses that

[t]he collet halves are retained within the cavity 156 [by] the inturned end section 155. So arranged, the suture can be pulled from the passage 157, out of the cavity 156. Should, however, the suture 27 be pulled, as indicated by arrow A, the suture will bind between the collet halves opposing surfaces 159a and 159b, pulling them to the attitude shown in FIG. 25. So arranged, the suture 27 will be crushed and held tightly between the opposing faces 159a and 159b locking suture in place.

Goble, col. 13, ll. 4-12.

In view of the forgoing disclosure and the depiction of collet halves 158a and 158b in Figures 25 and 26, it is clear that collet halves 158a and 158b comprises two separate and discrete halves the bias against suture 27 solely because collet halves 158a and 158b are wedged together by body 150. When disposed outside of body 150, the Goble patent provides no disclosure for securing collet halves 158a and 158b to suture 27.

In view of the foregoing, Applicant respectfully submit that the Goble patent does not disclose or suggest a crimp that is “crimped onto said flexible filament such that said crimp is securely fixed to said flexible filament independent of engagement between said crimp and said bone fixation element, as recited in claim 2 nor does it disclose or suggest “attaching said crimp onto said flexible filament adjacent to said proximal end of said bone fixation element such that said crimp is securely fixed to said flexible filament independent of the engagement between said crimp and said bone fixation element,” as recited in claim 4.

In view of the foregoing, applicant respectfully requests that the rejection to claims 2 and 4 under 35 U.S.C. §102(b) be withdrawn.

Claims 5-9, 10 and 11 depend from claim 2 or 4 and thus incorporate the limitations thereof. As such, applicant submits that claims 5-9, 10 and 11 are distinguished over the cited prior art for at least the same reasons as discussed above with regard to claims 2 and 4.

Applicant also respectfully submits that new independent claims 12 and 19 are distinguishable over the Goble patent. For example, applicant respectfully submits that the Goble patent does not disclose or suggest “a crimp crimped onto the flexible filament such that the crimp is securely fixed to the flexible filament independent of engagement between the crimp and the cannulated screw,” as recited in claim 12 or “securing a crimp onto the flexible filament

at a location spaced apart from the bone fixation element such that the crimp is securely fixed to the flexible filament," as recited in claim 19.

Finally, claims 13-18 and 20-29 depend from claim 12 or 19 and thus incorporate the limitations thereof. As such, applicant submits that claims 13-18 and 20-29 are distinguished over the cited prior art for at least the same reasons as discussed above with regard to claims 12 and 19.


No other objections or rejections are raised in the Office Action.

Conclusion

In view of the foregoing, Applicant respectfully requests the Examiner's reconsideration and allowance of claims 2 and 4-29 as amended and presented herein. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 20th day of September 2004.

Respectfully submitted,



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